



## ANTI-DOPING

## CAS DECISION IN THE ARBITRATION WADA v. RUSADA

*Lausanne, 17 December 2020* – The Court of Arbitration for Sport (CAS) has issued its decision in the arbitration procedure between the World Anti-Doping Agency (WADA) and the Russian Anti-Doping Agency (RUSADA), with 50 intervening parties, including the International Olympic Committee (IOC), the International Paralympic Committee (IPC) and the International Ice Hockey Federation (IIHF).

The CAS Panel unanimously determined RUSADA to be non-compliant with the World Anti-Doping Code (WADC) in connection with its failure to procure the delivery of the authentic LIMS data (Laboratory Information Management System) and underlying analytical data of the former Moscow Laboratory to WADA. As a consequence, the Panel issued a number of orders which come into effect on 17 December 2020 for a period of two years, i.e. until 16 December 2022.

The orders are reproduced in full in attachment to this media release.

The Panel's orders include, *inter alia*, the possibility during the two-year period for any athlete or athlete support personnel from Russia to participate in or attend the Olympic and Paralympic Games (winter or summer) and any world championships organised or sanctioned by a WADA signatory, on the condition that they are not subject to a suspension imposed by a competent authority, that the uniform worn does not contain the flag of the Russian Federation and contains the words "neutral athlete", and that the Russian national anthem is not played or sung at any official event venue.

For RUSADA to be reinstated as a compliant signatory, all consequences imposed for RUSADA's non-compliance must have been respected and observed in full by RUSADA through the two-year period with all monetary fines and contributions paid.

The 186-page arbitral award issued by the CAS Panel composed of Judge Mark L. Williams SC (Australia), President, Prof. Luigi Fumagalli (Italy) and Dr. Hamid G. Gharavi (France/Iran) (Co-arbitrators) contains the following concluding remarks:

*"This Panel has imposed consequences to reflect the nature and seriousness of the non-compliance [to the WADC] and to ensure that the integrity of sport against the scourge of doping is maintained. The consequences which the Panel has decided to impose are not as extensive as those sought by WADA. This should not, however, be read as any validation of the conduct of RUSADA or the Russian authorities. In making its orders, the Panel is limited by the powers granted under the applicable law, in particular the WADC and the ISCCS. It has considered matters of proportionality and, in particular, the need to effect cultural change and encourage the next generation of Russian athletes to participate in clean international sport."*

WADA filed its Request for Arbitration on 9 January 2020. A hearing took place from 2 to 5 November 2020 in a mixed format (in-person and by video-conference).

The full award may be published on the CAS website after consultation with the parties.

**OPERATIVE PART OF THE CAS AWARD 2020/O/6689 WADA v/ RUSADA****The Court of Arbitration for Sport rules that:**

1. The Request for Arbitration filed by the World Anti-Doping Agency (“WADA”) dated 9 January 2020 is partially upheld.
2. The Panel has jurisdiction to determine this matter.
3. The Russian Anti-Doping Agency (“RUSADA”) is found to be non-compliant with the World Anti-Doping Code (“WADC”) in connection with its failure to procure that the authentic LIMS data and underlying analytical data of the former Moscow Laboratory was received by WADA.
4. The orders below come into effect on the date of this Award and remain in effect until the second anniversary of that date (the “Two-Year Period”).
  - a. Subject to the provisos set out below, representatives of the Government of the Russian Federation in the categories set out in order 4(b) below (the “Government Representatives”):
    - i. May not be appointed to sit, and may not sit, as members of the boards or committees (including sub-committees) of any Signatory (or its members) or association of Signatories during the Two-Year Period.
    - ii. May not be issued accreditation by or for any Signatory for any of the following events held during the Two-Year Period:
      1. The Olympic and Paralympic Games (winter or summer);
      2. Any World Championships organised or sanctioned by any Signatory. For these purposes, a “World Championship” is any event or one or more of a series of events that determines the world champion for a particular sport or discipline in a sport, but does not include qualifying events.
    - iii. May not be permitted by any Signatory to participate in or attend the following events held during the two-year period:
      1. The Olympic and Paralympic Games (winter or summer);
      2. Any World Championships organised or sanctioned by any Signatory. For these purposes, a “World Championship” is any event or one or more of a series of events that determines the world champion for a particular sport or discipline in a sport, but does not include qualifying events for a World Championship.

**The provisos to this order are:**

- iv. this order does not apply to a Government Representative who, in their personal capacity only, is an IOC/IPC member or is otherwise elected to an IOC/IPC body or appointed by the IOC/IPC to sit on IOC/IPC bodies;
- v. this order does not apply to a Government Representative who is invited to a specified event by the Head of State or Prime Minister (or equivalent) of the host country of that specified event;
- vi. orders (ii) and (iii) do not apply to a Government Representative who is required to be accredited for and participate in a specified event in their capacity as an Athlete or legitimate Athlete Support Personnel;
- vii. any Signatory to the World Anti-Doping Code cannot be deemed non-compliant with this order unless it is established that that Signatory knowingly contravened the order.
- b. Government Representatives includes any person who, as of the date of this Award or during the Two-Year Period, met or meets one or more of the following categories:



- i. The following members of the executive government: Deputy Ministers, Ministers, Deputy Prime Ministers, the Prime Minister and the President of the Russian Federation (whatever their formal title).
  - ii. Members of the Federal Assembly of the Russian Federation, including both the Upper House (the Federation Council) and the Lower House (the State Duma).
  - iii. The Heads and Deputy Heads (whatever their formal title, e.g., Directors and Deputy Directors) of the Federal Services and Agencies, and of the Centre for Sports Preparation.
  - iv. All persons working for the Administrative Directorate of the President of the Russian Federation and/or for the Russian Investigative Committee.
- c. The Russian Federation (or any Russian Signatory or Russian national federation) may not host in the Two-Year Period, or bid for or be granted in the Two-Year Period the right to host (whether during or after the Two-Year Period), any editions of:
  - i. The Olympic and Paralympic Games (winter or summer);
  - ii. Any World Championships organised or sanctioned by any Signatory. For these purposes, a “World Championship” is any event or one or more of a series of events that determines the world champion for a particular sport or discipline in a sport, but does not include qualifying events.

Where the right to host any such event in the Two-Year Period has already been awarded to the Russian Federation, the Signatory in question must withdraw that right and re-assign the event to another country, unless it is legally or practically impossible to do so.

- d. Subject to the provisos set out below, the flag of the Russian Federation (current or historical) may not be flown or displayed in any official venue or area controlled by a Signatory or event organiser appointed by the Signatory at any of the following events during the two-year period:
  - i. The Olympic and Paralympic Games (winter or summer);
  - ii. Any World Championships organised or sanctioned by any Signatory. For these purposes, a “World Championship” is any event or one or more of a series of events that determines the world champion for a particular sport or discipline in a sport, but does not include qualifying events.

The provisos to this order are:

- iii. This order does not require a Signatory to prevent spectators from bringing the flag of the Russian Federation (current or historical) into official venues of an Olympic Games, Paralympic Games or any World Championships venue;
  - iv. This order does not require a Signatory to prevent the flag of the Russian Federation (current or historical) from being displayed (if necessary) for the identification of Russian nationals who are technical officials or technical delegates at the Olympic Games, Paralympic Games or any World Championships;
  - v. A Signatory cannot be deemed non-compliant with this order unless the Signatory knowingly permitted the flag of the Russian Federation (current or historical) to be let fly or displayed in official venues or areas under the Signatory’s control at a specified event.
- e. Any Athlete from Russia and their Athlete Support Personnel may only participate in or attend any of the following events during the Two-Year Period, on the conditions set out below.

The specified events are:

- i. The Olympic and Paralympic Games (winter or summer);



- ii. Any World Championships organised or sanctioned by any Signatory. For these purposes, a “World Championship” is any event or one or more of a series of events that determines the world champion for a particular sport or discipline in a sport, but does not include qualifying events.

The conditions are:

- iii. The Athlete/Athlete Support Personnel shall not be subject to suspension, restriction, condition or exclusion imposed by a competent authority in any past or future proceedings which remains in force at the time of the specified event.
- iv. Russian Athletes/Athlete Support Personnel shall participate in a uniform to be approved by the relevant Signatory which shall not contain the flag of the Russian Federation (current or historical), or any national emblem or other national symbol of the Russian Federation. If the uniform contains or displays the name “Russia” (in any language or format), the words “neutral athlete” (or an equivalent) must be displayed in English in a position and size that is no less prominent than the name “Russia”. For the avoidance of doubt, the uniform may contain the colours of the flag of the Russian Federation (current or historical) (collectively or in combination).
- v. Subject to order (iv), Russian Athletes/Athlete Support Personnel shall not display publicly the flag of the Russian Federation (current or historical), the name “Russia” (in any language or format), or any national emblem or other national symbol of the Russian Federation, including without limitation, on their clothes, equipment or other personal items or in a publicly visible manner at any official venues or other areas controlled by the Signatory or its appointed Event organiser.
- vi. The Russian national anthem (or any anthem linked to Russia) shall not be officially played or sung at any official event venue or other area controlled by the Signatory or its appointed event organiser (including, without limitation, at medal ceremonies and opening/closing ceremonies).

For the avoidance of doubt, this order does not impose restrictions in respect of any events other than the specified events.

- 5. RUSADA is required to satisfy the following reinstatement conditions during the Two-Year Period (or any shorter period as agreed between WADA and RUSADA) in order to be reinstated as a compliant Signatory:
  - a. RUSADA shall pay to WADA a contribution of USD 1,270,000 (one million, two hundred and seventy thousand United States dollars) in respect of the costs incurred by WADA from January 2019 to the date of this Award in investigating the authenticity of the data retrieved by WADA from the Moscow Laboratory in January 2019.
  - b. RUSADA shall, under supervision of the WADA Intelligence and Investigations department (WADA I&I) or the Athletics Integrity Unit (AIU) of World Athletics (as applicable), conduct investigations into any cases impacted by the deletions and/or alterations of the Moscow Laboratory data, as notified by WADA, including doing everything possible to locate the complete and authentic data from the Moscow Laboratory relating to those cases, so as to rectify in full the tampering that has impacted those cases;
  - c. RUSADA shall, as soon as possible and in good faith, provide any other support (including locating and providing any further data or information, and/or carrying out interviews or other investigative measures) as required by WADA or any other Anti-Doping Organisation to assist in determining whether Russian Athletes whose samples are listed in the Moscow Laboratory LIMS database provided to WADA by a whistle-blower in or around October 2017 have a case to answer for breach of the anti-doping rules. This includes, without limitation, providing authentic and complete hard and/or soft copies of the following documents relating to those samples: (a) doping control forms; (b) chain of custody forms; and (c) electropherograms and other records of the results of analysis of samples for EPO or related substances.



- d. RUSADA shall, where requested by the WADA I&I, conduct results management in respect of adverse analytical findings identified by the targeted re-analysis of the samples obtained by WADA I&I from the Moscow Laboratory in April 2019.
  - e. An international observer must remain on RUSADA's Supervisory Board and RUSADA's Director General must provide quarterly reports to WADA confirming that RUSADA's independence has been fully respected by the Russian authorities and no attempt has been made to interfere in any of its operations.
  - f. RUSADA must not interfere with the efforts of other Anti-Doping Organisations and their delegates (e.g., the International Testing Agency, International Doping Tests & Management, Professional Worldwide Controls, etc.) to test and/or investigate athletes in Russia.
  - g. All consequences imposed for RUSADA's non-compliance must have been respected and observed in full by RUSADA throughout the Two-Year Period during which the consequences are in place.
  - h. WADA shall be paid in full the costs and expenses that it has reasonably incurred from the date of this Award until the date of RUSADA's reinstatement, including (without limitation) the costs and expenses reasonably incurred in implementing the above consequences and the costs of monitoring compliance with the consequences and with the reinstatement conditions.
6. RUSADA is to pay a fine to WADA of 10% of its 2019 income or USD 100,000 (one hundred thousand United States dollars) (whichever is lower) within 90 (ninety) days from the notification of the present arbitral award. Such amount shall accrue interest at a rate of 5% *per annum* in case of non-timely payment.
  7. The costs of the arbitration, to be determined and served to the parties by the CAS Court Office, shall be borne 80% by RUSADA and 20% by WADA.
  8. RUSADA is ordered to pay WADA a total amount of CHF 400,000 (four hundred thousand Swiss francs) as contribution towards its legal and other expenses incurred in connection with these arbitration proceedings within 90 (ninety) days from the date the present award. Such amount shall accrue interest at a rate of 5% *per annum* in case of non-timely payment.

## LIST OF PARTIES

### Claimant:

World Anti-Doping Agency, Canada

### Respondent:

Russian Anti-Doping Agency, Russia

### Intervening parties:

International Olympic Committee, Switzerland

International Paralympic Committee, Germany

Russia Olympic Committee, Russia

Russia Paralympic Committee, Russia

European Olympic Committees, Italy

International Ice Hockey Federation, Switzerland

Russian Ice Hockey Federation, Russia

### 43 Athletes from Russia:

Lilya Akhaimova, Regina Isachkina, Elena Osipova, Arina Averina, Olga Ivanova, Yana Pavlova, Dina Averina, Yulia Kaplina, Alexey Rubtsov, Ilya Borodin, Evgeniya Kosetskaya, Ekatarina Selezneva, Artur Dalaloyan, Elena Krasovskaia, Nikita Shleikher, Alina Davletova, Evgeny Kuznetsov, Vladimir Sidorenko, Evgenija Davydova, Sayana Lee, Inna Stepanova, Inna Deriglazova, Vladimir Malkov, Maria Tolkacheva, Yana Egorian, Polina Mikhailova, Dmitry Ushakov, Vladislav Grinev, Andrei Minakov, Sofiya Velikaya, Kristina Ilinykh, Nikita Nagornyy, and Andrey Yudin, Sasha Gusev, Daniil Sotnikov, Ilya Borisov, Igor Ovsyannikov, Nachyn Coular, Valeria Koblova, Elizaveta Sorokina, Ivan Golubkov, Elena Krutova, and Viktoria Potapova.